

REMARKS

Claims 1, 2, 4, 5, 7, 8, 10, 11, 13, and 14 have been amended. Claims 6, 9, and 15 have been cancelled. New claims 16-18 have been added. Claims 1-5, 7, 8, 10-14, and 16-19 are now pending. Applicant respectfully requests reconsideration of the present application in view of this response, and submits that no new matter has been added by the present amendments.

With respect to paragraphs one and two (1 and 2), the Examiner objected to the drawings under 37 C.F.R. 1.83 (a). A proposed drawing amendment is submitted with this amendment. Support for the amended drawing is found on p.4-5 of the specification, and in originally filed claims 4 and 15.

REJECTIONS UNDER § 112

With respect to paragraphs three to six (3 to 6), claims 4 and 15 were rejected under 35 U.S.C. §112, as allegedly failing to comply with the written description requirement and allegedly being indefinite. Claim 15 has been cancelled. Claim 4 finds support in the disclosure, e.g., in the description of Figure 5, which recites that "a loop with ends could be provided, with the ends of the loop attached to [the] inner surface of the container, e.g. with glue, a staple, or a knot. ... A user of the container may grasp the container by the handle. The container may thus be suspended from the user's hand." The knot, glue, staple or other attachments may secure the two ends of the loop to the bag, allowing the loop to act as a handle. The two ends may be secured at any two points on the inside of the bag.

The Examiner further objected to Claim 4 because such a loop would not be a closed loop. The applicant respectfully suggests that under Application of Rohrbacher, 128 U.S.P.Q. 117, 119 (Bd. Cust. & Pat.App., 1960), "...an applicant is his own lexicographer and words used in his claims are to be interpreted in the sense in which they are used in his specification," and that "loop" is used in a sense that can include both open and closed loops. It is respectfully submitted that claim 16 is adequately disclosed in the specification, as the specification recites the attachment of the flexible member to the container using means such as a knot. (P.6, l.5-7) The knot could be tied, untied and re-tied at a different location on the flexible looping member. Thus, a theoretically infinite number of potential sizes for the first

and second loops is disclosed, in many of which the first loop has a circumference of at least approximately twice that of one of the handles in the second pair of handles.

REJECTION OF CLAIMS 1, 2, 5, 6, 9 AND 10 UNDER § 102 (b)

With respect to paragraphs seven and eight (7 and 8), claims 1, 2, 5, 6, 9, and 10 stand rejected under 35 U.S.C. § 102(b) as unpatentable over Deubener (US 1,305,198). While applicant disagrees with Examiner that Claims 6 and 9 are unpatentable, to expedite prosecution, they have been cancelled. It is respectfully submitted that Deubener does not render obvious claims 1, 2, 5, or 10 for the reasons set forth below.

Amended claim 1 recites "... a loop attached to the container at at least two separate points inside the container, *wherein said loop does not pass through the walls or closed end of the container....*" (emphasis added) Deubener generally describes a handle, which passes through the side walls of the Deubener bag. This renders the Deubener design unsuitable for some uses, e.g., as a mailing container. Deubener neither teaches nor suggests a loop which does not pass through the walls or closed end of a container. Therefore, it is respectfully submitted that Deubener does not anticipate claim 1. Claims 2, 5, and 10 all depend from claim 1. It is respectfully submitted that Deubener does not anticipate these dependent claims for at least the same reasons that it does not anticipate claim 1.

REJECTION OF CLAIMS 1, 2, 4-11, 13, AND 15 UNDER § 102 (b)

With respect to paragraph nine (9), claims 1, 2, 4-11, 13, and 15 were rejected under 35 U.S.C. § 102(b), as allegedly being anticipated by Maxfield (U.S. Patent No. 1,182,580). Claims 6, 9 and 15 have been cancelled. Currently amended claim 1 recites "... a loop attached to the container at at least two separate points inside the container, wherein said loop does not pass through the walls or closed end of the container...." Maxfield generally describes a handle, which passes through the side walls of the Maxfield bag. This renders the Maxfield design unsuitable for some uses, e.g. as a mailing container. Maxfield neither teaches nor suggests a loop which does not pass through the walls or closed end of a container. Therefore, it is respectfully submitted that Maxfield fails to anticipate claim 1. Claims 2, 4, 5, 7, 8, 10, 11, and 13 all depend from claim 1. It is respectfully submitted that Maxfield does not anticipate these dependent claims for at least the same reasons that it does not anticipate claim 1.

REJECTION OF CLAIMS 7, 8, AND 15 UNDER § 103 (a)

In paragraph ten (10), the Examiner rejected claims 7, 8, and 15 under 35 U.S.C. 103 (a) as being unpatentable over Deubener, alleging that “[i]t would have been an obvious matter of design choice to locate the reinforcements to the inner surface of the body to provide the same function... .” The Applicant traverses the Official Notice and respectfully requests that the Examiner cite a reference or provide an affidavit in support of the rejection (see MPEP 2144.03) Furthermore, Deubener states that his invention has the salutary effect on shopping bag construction of “... enabling the use of lighter weight paper in their construction and increasing their weight carry-ing capacity,” (lines 14-18) which lightening and increasing are made possible only by passing the handles around the exterior—particularly the bottom—of the bag. Thus, Deubener teaches away from the claims of the present invention, which recite that the loop not pass through the walls or closed end of the container.

REJECTION OF CLAIM 3 UNDER § 103 (a)

In paragraph eleven (11), the Examiner rejected claim 3 under 35 U.S.C. § 103 (a) as being unpatentable over Deubner in view of Katz (U.S. 1,996,619). While the applicant disagrees with the Examiner’s contention that “[i]t would have been obvious to employ the knot of Katz in the loop of Deubener to allow the loops to be threaded through the holes in the bag,” claim 1 (from which claim 3 depends) has been amended to recite the additional limitation that “... said loop does not pass through the walls or closed end of the container... .” Neither Deubener nor Hurst provides any suggestion to alter their respective teachings or to combine them. Neither Deubener nor Katz, *nor both in combination*, discloses or suggests attaching the looping member in such a way as to avoid passing through the side walls or bottom of the container. Instead, Deubener generally describes a shopping bag wherein the handle passes through the bag’s side wall(s) and/or bottom at *eight* separate points. The Katz bag discloses *twelve* such passages through the side and/or bottom of the container. Because *even in combination*, the cited references do not meet all of the limitations of the amended claim, it is respectfully submitted that claim 3 is patentable over Deubener in view of Katz.

REJECTION OF CLAIM 14 UNDER § 103 (a)

In paragraph twelve (12), the Examiner rejected claim 14 as being allegedly unpatentable under 35 U.S.C. § 103 (a) over Deubener in view of Hurst (US 4,290,763). Applicant respectfully traverses the Examiner's obviousness rejections. Amended claim 1 recites the additional limitation of "... a loop attached to the container at at least two separate points inside the container, wherein said loop does not pass through the walls or closed end of the container..." Deubener discloses a handle attached to the outside surface of the bag which passes through the side walls of the Deubener bag. Neither Deubener nor Hurst provides any suggestion to alter their respective teachings or to combine them. Neither Deubener nor Hurst, *nor both in combination*, discloses or suggests attaching a looping member in such a way as to avoid passing through the side walls or bottom of the container. Hurst does not disclose or suggest any looping members whatsoever, much less looping members that do not pass through the side walls or bottom of a container. Furthermore, Deubener recites bags "... made of paper or other fibrous material," which teaches away from the use of laminates, particularly laminates including a metal layer. It is therefore respectfully submitted that claim 14 is patentable over the combination of Deubener and Hurst.

REJECTION OF CLAIM 12 UNDER § 103 (a)

In paragraph thirteen (13), the Examiner rejected claim 12 as allegedly being unpatentable under 35 U.S.C. § 103 (a) over Maxfield in view of Van Erderm et al. (U.S. 4,786,190). While the applicant may not agree with the Examiner's obviousness rejections, to facilitate matters, claim 1 has been amended. Currently amended claim 1 recites "... a loop attached to the container at at least two separate points inside the container, wherein said loop does not pass through the walls or closed end of the container..." Claim 14 depends from claim 1. Neither Van Erderm nor Hurst provides any suggestion to alter their respective teachings, or to combine them. Furthermore, neither Deubener nor Van Erderm, *nor both in combination*, discloses or suggests attaching a looping member in such a way as to avoid its passing through the side walls or bottom of the container. Instead, Maxfield generally describes a handle attached to the outside surface of the bag which passes through the side walls of the Maxfield bag. It is therefore respectfully submitted that claim 12, which depends from claim 1, is patentable over the combination of Maxfield and Van Erderm et al.

Appl. No. 10/071,404
Att. Docket No. 12227/2
Reply To Office Action of 14 August, 2003

NEW CLAIMS

New claims 16-18 have been added. No new matter has been added. New claims 16-18 are patentable over the references cited by the Examiner. New claim 16, from which claims 17 and 18 depend, recites "... a loop attached to the container at at least two separate points inside the container, *wherein said loop does not pass through the walls or closed end of the container....*" None of the references cited by the Examiner, nor any of them in combination, teach or suggest a loop which does not pass through the walls or closed end of a container. Therefore, it is respectfully submitted that new claims 16-18 are patentable for at least that reason.

CONCLUSION

In view of the foregoing, it is believed that the rejections have been obviated, and that claims 1-5, 7, 8, 10-14, and 16-18 are allowable. It is therefore requested that the rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,
KENYON & KENYON

Dated: _____

11/14/03

By: _____

Andrew Reibman (Reg. No. 47,893)

Andrew Reibman
by Kevin J. Pugh
52,133

One Broadway
New York, NY 10004-1050
Phone: 212-425-7200
Fax: 212-425-5288
CUSTOMER NO. 26646